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JOHN P. ROBSHAW, JR.  
WILLIAM LERNER

February 4, 1981

Mr. William O'Brien  
New York State Department of Health  
584 Delaware Avenue  
Buffalo, New York 14202

**RECEIVED**

**FEB 9 1981**

RE: CECOS International, Inc.

N. Y. STATE DEPT. OF HEALTH  
BUFFALO REGIONAL OFFICE

Dear Mr. O'Brien:

At the request of CECOS International, Inc., and Niagara Recycling, Inc. and pursuant to our conference and understanding, I am forwarding an agreement that CECOS and Niagara are willing to execute limiting the movement and use of slag material on the Pine Avenue Site.

We understand that such an Agreement is requested because a survey of the Site by the Department of Health reflected radioactivity in some discarded residual slag material. As has been represented to the Department, no slag leaves the site. While the survey by the Department has permitted it to conclude that the levels of radiation and the locations of the slag do not present a radiation hazard to the workers or to the environment, we do concur and agree that it would be appropriate for CECOS, as the Operator, and Niagara, as the Owner, to enter into an agreement with the Department committing both CECOS, Niagara and successors, to limit the use of the slag material.

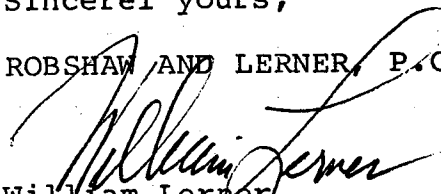
I have forwarded a copy of this letter and Agreement to Dr. Rimawi at his office in Albany.

If you or Dr. Rimawi have any questions or comments, feel free to contact me, or Ernie Gideon or John van Everdingen, at CECOS. Likewise, if the Agreement is satisfactory, CECOS and Niagara Recycling are prepared to sign the Agreement now.

I look forward to hearing from you.

Sincerely yours,

ROBSHAW AND LERNER, P.C.

  
William Lerner

WL/mfm

Attachment

CC: Dr. Karim Rimawi

2/11/81 COPY TO DR. CLIFFORD, F. ROSATI, 1 HOLLAND!



## AGREEMENT

WHEREAS, Niagara Recycling, Inc. ("Niagara") owns a 385 acre parcel of property located adjacent to Pine Avenue in the City of Niagara Falls, New York, hereinafter referred to as the "Pine Avenue Site"; and

WHEREAS, CECOS International, Inc. ("CECOS") leases a portion of the site from Niagara for the purpose of, among other things, engaging in the business of treating and safely and securely disposing of industrial and chemical waste products; and

WHEREAS, the New York State Department of Health ("Department") has, among other things, the responsibility to assure that all persons shall operate, transfer, receive, possess or use, or permit the operation, transfer, receipt, possession or use of any radiation source in accordance with the Public Health Law and The Industrial Code of the State of New York; and

WHEREAS, at the time Niagara became the owner of the Pine Avenue Site it contained slag containing U-238 and Th-232 ("Slag"); and

WHEREAS, laboratory analysis conducted by the Department of the slag on the Pine Avenue Site indicates that the U-238 and Th-232 exceed the exempt concentration limits of 0.05% by weight; and

WHEREAS, the slag presents no imminent health hazard to workers on the site or members of the public generally; and

WHEREAS, Niagara, CECOS and the Department all agree that the spread and use of the slag should be controlled;

IT IS HEREBY AGREED as follows:

1. Material on Site

Niagara as the owner of the Pine Avenue Site and CECOS as the Operator will take such steps as may be necessary to keep the slag material on the Pine Avenue Site. Neither Niagara or CECOS shall transfer or remove the slag material from the Pine Avenue Site without the permission of the Department.

2. Use of Slag

Niagara and CECOS shall not use the slag material for any purpose not authorized by the Department, it being understood that the slag may be used on-site only for the construction of roads and containment berm in land burial facilities, provided that the radioactive concentration does not exceed the permissible dose in non-controlled areas or the permissible occupational dose as set forth in Chapter 1 of the State Sanitary Code, Part 16 ("Part 16").

3. Safety

Niagara and CECOS shall make every effort to maintain radiation exposures and releases of radioactive materials as far below the limits set forth in Part 16 as is reasonably achievable and shall monitor construction to insure that any slag transfer on-site does not result in increased concentration due to cumulative effects as a result of the placement of the slag. CECOS shall conduct periodic surveys during construction of the berms to assure that the radiation levels specified in Part 16 are not exceeded.

4. Notice to Department

Niagara and CECOS shall notify the Department of the use of the slag materials and shall give notice of any sale or lease of the Pine Avenue Site or any portion thereof at least five (5) days prior to any sale or lease.

5. Compliance with Rules and Regulations

Niagara and CECOS shall comply with applicable provisions of Chapter I of the New York State Sanitary Code, Part 16 and such other rules and regulations of the Department as may be applicable, and shall afford to the Department reasonable access to the Pine Avenue Site for its authorized personnel, for the purpose of assuring compliance with the terms and provisions of this Agreement.

6. Miscellaneous

Nothing contained herein shall be construed as constituting a license to either Niagara or CECOS for the possession or use of any radioactive material.

Date: January , 1981

NEW YORK STATE DEPARTMENT OF  
HEALTH

By: \_\_\_\_\_  
Commissioner

CECOS INTERNATIONAL, INC.

By: \_\_\_\_\_  
President

NIAGARA RECYCLING, INC.

By: \_\_\_\_\_